

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3296 of 2009
and
M.P.No.1 of 2009

The Managing Director,
Tamil Nadu State Transport corporation Ltd.,
Division - II,
Chennimalai Road, Erode. ...Appellant/Respondent

Vs

1. Kanagu

2.Minor Balaji rep.by his mother/guardian,
the first respondent

A. Thirumalaisamy(died)

3.T.Chinthamani ...Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the award and decree made in M.C.O.P.No.477 of 2007 dated 30.03.2009 on the file of the Motor Vehicles Accident Claims Tribunal and Additional District Judge, F.T.C.No.IV, Coimbatore at Tiruppur.

For Appellant : Mr.S.V.Vasantha Kumar

For Respondents: Mr.Ma.Pa.Thangavel

J U D G M E N T

This appeal is preferred by the Transport Corporation against the award and decree dated 30.03.2009 passed by the claims Tribunal in M.C.O.P.No. 477 of 2007.

2.The case in brief, is as follows:

On 22.04.2007 at about 06:45 hours, when the deceased Easwaran was proceeding in his two wheeler bearing Registration No.TN 39 F 5293 in the Tirupur - Kangeyam road, in front of Travancore Bank, Tirupur, the appellant bus bearing Registration number TN-33-N-1234 came in a rash and negligent manner without

adhering the traffic regulations and dashed against him. As a result of the same, the deceased sustained injuries all over the body and later, he succumbed to death on account of the same. The legal heirs of the deceased have filed M.C.O.P.No. 477 of 2007 seeking compensation of Rs.10,00,000/-. On a consideration of the evidence available on record, the Tribunal has awarded a total compensation of Rs.7,51,200/- with interest at the rate of 7.5% per annum from the date of petition, to the respondents/claimants. Challenging the same as exorbitant, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant/Transport Corporation has submitted that the Tribunal erred in coming to the conclusion that the driver of the bus was responsible for the accident; the Tribunal failed to verify whether the claimant was in possession of the valid driving license at the time of the accident; and even though F.I.R. was registered against the driver of the bus, the case was pending before the Judicial Magistrate Court. However, placing reliance on the F.I.R, the Tribunal has erred in rendering its findings on negligence against the driver of the bus and liability on the part of the Transport Corporation. He further submitted that the amount awarded by the Tribunal under different heads are excessive and exorbitant and hence, the same has to be reduced substantially.

4.The learned counsel for the respondents submitted that the Tribunal, after examining P.W.2 who is the brother of the deceased and after verifying the relevant documents, concluded that the driver of the bus was the tort-feasor for the accident. He also contended that the Tribunal has rightly considered the materials and evidence and has awarded the just and fair compensation and hence the same does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant as well as the learned counsel for the respondents and perused the materials available on record carefully and meticulously.

6. The Tribunal based on the eyewitness account (P.W.2) coupled with Ex.P.2 Motor vehicle Inspector report has concluded that the accident had happened as alleged in the Ex.P1/F.I.R. The Tribunal has also observed that there is no contra evidence as against P.W.2 and P.W.1. Thus, relying on the evidence of P.W.2 and Ex.P.2 the Tribunal has concluded that the accident had occurred due to the rash and negligent driving on the part of the driver of the bus and consequently, fastened the liability on the appellant herein. This Court finds no reason to interfere with such a finding, since there is no iota of evidence adduced on the side of the appellant to substantiate

their stand that the accident was not happened on account of the negligence on the part of the bus driver. Hence, the findings of the Tribunal on negligence and liability need not interfered with by this Court.

7.As regards the quantum of compensation awarded by the Tribunal, P.W.1/wife of the deceased has deposed that her husband was doing carpentry work and earning a sum of Rs.6,000/- per month. Based on his age and avocation, the Tribunal has fixed the monthly income of the deceased at Rs.5,700/- per month. After deducting 1/3rd towards personal expenses and applying the multiplier '15' arrived Rs.6,84,000/- as compensation, which is calculated hereunder:

Monthly income - Rs.5,700/-
After deducting 1/3rd towards
personal expenses- Rs.3,800/-

Loss of income - Rs.3,800x12x15 = Rs.6,84,000/-

The Tribunal has also awarded a sum of Rs.20,000/- towards consortium and Rs.40,000/- towards love and affection and Rs.10,000/- and Rs.5,000/-towards funeral expenses and for Transportation and loss of articles awarded Rs.5,000/- and Rs.200/- respectively. Thus, the total award amount was quantified at Rs.7,51,200/-. This Court is of the view that the amount awarded by the Tribunal under the above heads are very reasonable, weightage of evidence, probabilities of case and settled principles of law and hence, the same are confirmed.

8.Thus, affirming the award passed by the claims Tribunal, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant-Transport Corporation is directed to deposit the entire compensation amount as awarded by the claims Tribunal, with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. It is reported that the second respondent/minor claimant has attained majority as of now. In view of the same, on such deposit being made, the respondents/claimants are permitted to withdraw their respective share amount as per the ratio of apportionment fixed by the Tribunal, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal.

Sd/-
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

smn/srk

To

1.The Motor Accident Claims Tribunal
Additional District Judge, F.T.C.No.IV,
Coimbatore at Tiruppur.

2.The Section Officer,
V.R.Section,
High Court,
Madras.

+1cc to Mr.Ma.Pa.Thangavel, Advocate SR.No.64799

C.M.A.No.3296 of 2009
and
M.P.No.1 of 2009

NR(CO)
GMY(19/08/2020)